IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.41863 of 2008

1. MAHENDRA YADAV
2. KAMESHWAR YADAV
3. VIJAY RAM @ VIJAY YADAV
4. PARSHURAM RAM @ PARSHURAM YADAV

---------- Petitioners

Versus

THE STATE OF BIHAR ------- Opp. Party

For the petitioners : Sri Sandeep Kumar, Advocate
For the O.P. : Sri D. Mehta, A.P.P.

---

2. 14.11.2008 Heard Sri Sandeep Kumar, Advocate for the petitioners and Sri D. Mehta, APP for the State.

The four petitioners are in custody in a case under Sections 307 etc. of the IPC and the allegation is that while the informant was returning from his village with his family members and he attempted to remove the hurdle created on the road, the accused persons came out all on a sudden from darkness and assaulted him with lathi and other weapons. There is definite allegation against accused Birendra Yadav, he dealt lathi blows on the head of Anirudh Kumar Singh and Rajendra Yadav dealt a Garasa blow on Kalika Singh on his head and he was injured. Devi Dayal Singh was dealt with lathi blows by Satyendra Yadav and when Indrajeet intervened to save his uncle, he has been dealt blows, so as to getting a fracture wound. The real cause for occurrence as indicated

WEB COPY NOT OFFICIAL

in the FIR was transgressing the limits fixed by the villagers for celebrating Holika Dahan ceremony.

There is a counter blast also could not under Section 307 IPC but under Section 324 of the IPC and it is alleged that the present petitioners and others are attacked the villagers of the informant of the counter case and assaulted them simply because they did not like that. They should also observe the ceremony which is customary in the local area. It is true that the Additional Sessions Judge, who dismissed the prayer for bail of the petitioners has mentioned that there was a large number of eye witnesses of the occurrence, but it does not appear clearly as to who was the author of the same and the accused persons of the counter case, i.e., the informant and others have been admitted to bail by the police.

WEB COPY NOT OFFICIAL

Regard being had to the above facts, let four petitioners named above, be released from custody on furnishing a bond of Rs. 3,000/- (three thousand) each with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Aurangabad in connection with Aurangabad Muffasil P.S. Case No. 53 of 2008.

DKS/ **(Dharnidhar Jha, J.)**